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Legal DEPARTMENT

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Subject:—

Opinions under the
Prince of Wales Museum Act,
1909

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Opinions under the Prince of
Wales Museum Act, 1909.

1. O.No.2208,
dt. 12-3-42.

Prince of Wales Museum Act, 1909.

Section 3(1) --

Whether the Trustees can let
the premises of the museum free
of rent ---.

1-5.

KRP.
27/4/56.

Evk DP
30-4-57

Submitted.

In his letter dated 31.1.1942 Col. Ransford, Chairman of the Hostel Committee, inquired from Diwan Bahadur Jhaveri, Chairman, Prince of Wales Museum of Western India, whether the Trustees of the Prince of Wales Museum would be willing to allow accommodation for a Nurses Hostel on the top floor of the New Wing of the Museum which is now occupied by the Archaeological Section. From the reply of the Diwan Bahadur Jhaveri dated 27.2.1942, it transpires that the Trustees have agreed to hand over the top floor to the Hostel Committee for the accommodation of the Nurses Hostel, subject to the four conditions mentioned therein. As the Trustees of the Prince of Wales Museum consider that they have no power under the Prince of Wales Museum Act, 1902, to close any part of the Museum for purposes not connected with the Museum Work, the Chairman, Prince of Wales Museum has referred the matter to Govt. for its approval. The question for R.L.A.'s consideration is whether there is any legal objection to approving the proposal of the Chairman, Prince of Wales of Museum.

2. From the preamble of the Prince of Wales Museum Act, 1902, it is clear that the Act aims at making provision for the erection, maintenance and management of the Museum and for the vesting and management of the land (set apart) and moneys and for the appointment of a permanent Board of Trustees. Section 2

provides

provides that all the estate, right, title and interest of His Majesty together with all other estates, rights, titles and interests in and to the land specified in the Schedule to this Act and all moneys now in custody of the three Trustees provisionally appointed to take the custody all the moneys subscribed for the purposes of erecting or maintaining at Bombay a Museum as a memorial of the visit in the year 1905 of His Royal Highness the Prince of Wales to Bombay and all the other property, whether immoveable or moveable, which has been or may hereafter be given, devised, bequeathed, transferred or otherwise acquired for the said purposes shall vest in the permanent Board of Trustees constituted by this Act on trust for the erection on the land specified in the said Schedule of a Museum to be called "The Prince of Wales Museum of Western India" and for the maintenance and management of the said land and Museum. This section makes it clear that all moveable and immoveable property which may be acquired, and the land specified in the Schedule along with the Museum erected thereon vest in the Board of Trustees constituted under section 3 and the right of maintenance and management of the land and Museum also vests in the Board of Trustees subject to the rules, if any, framed in that behalf under clauses (c) and (d) of

sub-section (2) of section 5.

3. Section 3(1) inter alia provides that the Board of Trustees shall be a body corporate and shall sue and be sued, and shall have power to acquire and hold immoveable and moveable property, to let on hire, lease or mortgage any immoveable property vesting in them, to enter into contracts and to do all acts necessary for an consistent with the purposes of this Act. The words "acquire and hold immoveable or moveable property, to let on hire, lease or mortgage any immoveable or moveable property vesting in them" in section 3(1) of the Act were substituted for the words "hold and acquire property" by section 2(a) of Bombay Act VI of 1921. In the S.O.R. underlying the Amending Act of 1921, it is stated thus:-

"The object of the amendment of section 3 is to give the Board of Trustees power to let out part of the Museum buildings for revenue producing purposes and to mortgage the property as security for their loan".

It is thus clear that section 3(1) was amended with a view to take power to the Board of Trustees to derive income by letting the premises so as to enable them to pay off the loan raised by mortgaging the property. It is doubtful if the Board of Trustees can permit accommodation for the Nurses Hostel without charging rent for the use of premises. If the Board charges even economic rent, it would amount to renting the premises on hire, and

there

there would appear no objection to let on hire the top floor of the New Wing for the accommodation of Nurses Hostel. It may, however, be pointed out that the power to maintain and manage Museum vests in the Board of Trustees under section 2 and in the absence of any rules made under clauses (c) and (d) of sub-section (2) of section 5 of the Act, in that behalf, approval of Government does not appear to be necessary for granting the accommodation for the Nurses Hostel.

Sd. E.P.Bhangara

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A.S.

It is no doubt true that under sec. 3(1) of the Prince of Wales Museum Act, 1909 (Dom. Act III of 1909), the Board of Trustees called "The Trustees of the Prince of Wales Museum of Western India", have power to let on hire, lease or mortgage any immoveable property vesting in them. To allow the top floor of the new wing of the Museum to be converted into a hostel for nurses without any consideration would not amount to letting the premises on hire or lease within the meaning of sec. 3(1). It would therefore appear necessary for the Board of Trustees to let and for the Chairman of the Hostel Committee to take the top floor of the new wing of the Museum on a lease for some rent which may be agreed to between the parties.

Sd. R.T.K.

10/3.

D.S.

It is true that the object of the

amendment to sec.3 of Bom.III of 1909 carried out by Bom.VI of 1921 was to enable the Trustees to let out part of the museum buildings for revenue producing purposes and not to permit free user for any charitable or public purposes. However, the amount of rent to be fixed is a matter within the discretion of the trustees and there seems no objection to reply on the lines of the note of A.S. as slightly amended. In the alternative the papers may be

"Seen and returned.

2. It is presumed that as provided in section 3(1) of the Prince of Wales Museum Act, 1909, the Trustees will "lease" the premises in question upon terms (including provision for rent, nominal or otherwise) and conditions acceptable to the Hostel Committee."

Id. V.N.S.

11-3-42.

R.L.A.

Id. P.N.M.

11/3.

MRP.

27/4/56.

gmc
30/4

DPF
30-4-56